

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of

Electronic Filing of Documents
in Rulemaking Proceedings

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GC Docket No. 97-113

COMMENTS

1. Pursuant to the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding,¹ the National Exchange Carrier Association, Inc. (NECA),² hereby submits the following Comments.

2. The Notice proposes to allow parties to file comments electronically in all FCC informal notice and comment rulemaking proceedings conducted under section 553 of the Administrative Procedure Act, except for broadcast allotment proceedings.³ This action should make it significantly

¹ Electronic Filing of Documents in Rulemaking Proceedings, Notice of Proposed Rulemaking, GC Docket No. 97-113, FCC 97-113 (rel. April 7, 1997) (Notice).

² NECA is a not-for-profit, membership association, serving over 1400 local exchange carrier (EC) study areas. NECA members include all local exchange carriers in the United States, Puerto Rico, the U.S. Virgin Islands and Micronesia. NECA is responsible, under Subpart G of Part 69 of the Commission's rules, for activities including the preparation of access charge tariffs on behalf of all telephone companies that do not file separate tariffs, collection and distribution of access charge revenues, the administration of the Universal Service and Lifeline Assistance programs, and the administration of the interstate Telecommunications Relay Service fund. See 47 C.F.R. § 69.603 and § 64.604.

³ Notice at ¶1.

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easier for members of the public to communicate their views to the Commission, and to review comments that others have filed.

3. The Notice is the latest step in the Commission's ongoing efforts to improve the efficiency of its service.⁴ Most recently, the Commission established a mandatory electronic tariff filing program which it says will afford a quick and economical means to file tariffs while giving interested parties virtually instant notification and access to the tariffs.⁵ NECA has supported the Commission's past efforts to provide fast, high quality service to the public.⁶ NECA supports the Commission's further efforts to streamline its processes as outlined in this Notice. NECA is providing these comments to encourage the increased use of electronic filing.

I. What Should be Filed.

4. The Notice proposes to limit electronic filing to comments in rulemaking proceedings, except broadcast allotment proceedings.⁷ NECA supports the Commission's efforts to allow parties to file comments electronically and to give the public electronic access to these filings. NECA suggests that the Commission extend electronic filing by encouraging parties to file petitions for rulemaking (and

⁴ See, e.g., "Report on Creating an FCC for the Information Age", from the Special Counsel to the FCC on Reinventing Government, Public Notice 51978, February 2, 1995.

⁵ Implementation of Section 402(b)(1)(A) of the Telecommunications Act of 1996, CC Docket No. 96-187, Report and Order, 12 FCC Rcd 2170 (1997) (Order).

⁶ See, e.g., NECA's March 15, 1996 Comments in PP Docket No. 96-17, Improving Commission Processes.

⁷ The Notice uses the term "comments" to refer to comments, reply comments, and other documents filed in notice and comment rulemaking proceedings prior to the reply comment deadline. Notice at fn. 1.

perhaps other pleadings such as requests for interpretation, declaratory ruling, waiver, etc.) electronically.⁸ Currently, it can be very difficult to find miscellaneous filings at the Commission until a public notice is released and a reference number assigned. If these pleadings were submitted electronically, they could be placed in the data base. The public could check there for filings of interest and would have petitions in hand when the public notices are released. This is especially important where comment and reply cycles are abbreviated.

5. The Notice does not contemplate making electronic filing mandatory. NECA supports *allowing*, but not *requiring* comments to be filed in electronic format in all rulemaking proceedings. To make electronic filing mandatory could be a burden on companies who do not yet have the means to file electronically.⁹

II. How to File

6. The Notice tentatively concludes that, if comments are filed electronically, parties would need only to submit one electronic "copy," which could automatically be distributed by the FCC to the appropriate Bureaus and Offices, as well as the copy contractor, in electronic form. NECA agrees with this approach. That way the appropriate Bureaus and Offices know that the filing is procedurally in order when they receive it. Moreover, NECA suggests the Commission add a field to its "Send

⁸ Comments (or oppositions) and replies in these proceedings should also be eligible for electronic filing.

⁹ At an April 30, 1997 public forum on electronic filing, the Commission said it plans to scan paper-filed documents. This will assure that all comments are available on line. See Public Notice, Report No. GN 97-7, "Commission Announces April 30 Open Forum on Proposal for Electronic Filing of Comments in FCC Rulemaking Proceedings (GC Docket No. 97-113)" (Forum).

the Comment” electronic filing form so that the filing party may specify other interest parties in the Bureaus and Offices that it wishes to receive courtesy copies of filings.¹⁰

7. The Notice suggests that the primary mechanism for electronic filing of formal comments in rulemaking proceedings should be a World Wide Web page form, through which parties may upload their comments directly into a database or input brief comments directly.¹¹ NECA agrees that this is the most efficient way to file electronic comments. With access to the web becoming so common, it is the logical place to both file comments and find others’ comments. Additionally, the structure currently being developed for electronic tariff filings can be duplicated for use with this data base.

III. Other Issues

8. *Security.* The Notice seeks comment on whether any special measures are necessary to authenticate or secure electronic comments in rulemaking proceedings.¹² If the Commission wishes to establish a security system, NECA suggests that frequent commenters be assigned account

¹⁰ At the Forum, handouts were available detailing the proposed forms for submitting and searching for comments. Some of these forms were attached to the Notice.

¹¹ Most commenters in the CC Docket No. 96-187 proceeding advocated the use of an Internet-based system for electronic tariff filing. USTA argued that bulletin boards are slower than the World Wide Web, and dial-in databases require specific software, which are difficult to administer. See USTA’s October 9, 1996 Comments at 8-9.

¹² Currently it is up to commenters to identify fraudulent paper filings. The onus would remain on the commenters to identify fraudulent electronic filings. Notice at ¶ 16.

numbers that must be entered when transmitting comments.¹³ Limiting account numbers to frequent commenters will keep administration of the password system manageable.¹⁴ Occasional commenters could transmit their comments via e-mail. However, this also results in a larger work effort on the Commission's part.

9. *Frivolous or abusive filings.* Although the Notice tentatively concludes that no special procedures should be created to address this concern, it seeks comment on whether any special procedures should be developed to mitigate frivolous or abusive filings. NECA believes that no special procedures need to be created at this time to address this issue. Although there does not appear to be a practical way for the Commission to block frivolous incoming filings, it can through its administration of the system prevent multiple filings from being posted to the system.

10. *Filing date and deadlines.* The Notice tentatively concludes that the filing date and time for comments submitted by electronic mail is the date the document is received by the FCC. NECA agrees that electronic comments must be subject to the same deadlines as paper comments in order to have a level playing field between paper and electronic filers.¹⁵ Traditionally, most parties file on

¹³ The contractor designing the electronic tariff filing system for the Competitive Pricing Division has stated that it has already set up password security for that system. If the Commission could apply that same technology to other electronic filings, it would save the time and cost of developing some other system. (Telephone conversation on April 23, 1997 between NECA and contractor.)

¹⁴ The Commission determined in the Order that at least at the initial stage of implementation it would be responsible for administering the electronic filing program. Presumably, the number of account numbers needed for tariff filings is much smaller and easily defined, whereas the number of possible commenters in a rulemaking proceeding could be much larger and not readily identifiable.

¹⁵ To further keep a level playing field, the Commission should specify that the deadline is 5:30 p.m. Eastern Standard Time, so that filers on the West Coast do not have an additional three hours to file.

the day comments are due, usually in the afternoon. If the filing party is in the Secretary's office by 5:30 p.m., the filing is usually accepted. The same courtesy should be accorded to electronic filings. That is, if the electronic receipt is timed before 5:30 p.m., the filing should be accepted regardless of how long it takes the Commission's computer system to actually receive and store the document.¹⁶

11. NECA agrees that electronic comments may be received as informal or *ex parte* filings in non-restricted rulemaking proceedings, until that proceeding is terminated (or the docket is closed) and no longer subject to a petition for reconsideration or clarification, except during the Sunshine Period. Electronic filing should be extended to Petitions for Reconsideration of any Commission decision in a rulemaking proceeding. The Notice tentatively concludes that, where service of documents is required on specific parties (e.g., oppositions to petitions for reconsideration under 47 C.F.R. § 1.429(f)), such service must be made with paper documents, unless the party to be served agrees to accept electronic service of these materials.¹⁷ The Notice seeks comment on possible means of facilitating electronic service. Filing parties in the comment and reply round could specify whether they prefer to receive any future documents (e.g., petitions for reconsideration) electronically or on paper. This information could easily be incorporated in the filing party's service list and paper or electronic copies sent accordingly.

12. *Page limits.* While page limits need not be specified for filing purposes, the Commission may wish to consider retaining them for efficiency sake. It may be helpful for the viewing party to know

¹⁶ As part of the electronic filing process, the Commission sends the filing party an electronic receipt of its filing. This receipt can be easily printed and can replace the FCC Secretary's stamp as proof of filing.

¹⁷ Notice at ¶20.

how many pages a filing is before deciding to download or read online. Perhaps a field on the Send Comments form could be added to show number of pages. This information could be included in the Search Results Screen.

13. *Acceptable file formats.* Although the many word processing software packages are mostly compatible, filers use many other software packages (spreadsheets, graphics software, mainframe languages). It appears that the acceptable file formats cover all the possibilities.¹⁸ Pages in non-acceptable forms may be converted to Acrobat (.PDF) files and sent in that format.

14. Since not all printers will format a document in the same way, citing to others' comments by page number is no longer feasible. However, commenters can number paragraphs (most word processing software packages have a feature to automatically number them). Paragraph numbers can replace page numbers in citations. In keeping with the spirit of this rulemaking proceeding, NECA submits these comments electronically, with paragraph numbering for future citation purposes.

¹⁸ The Commission mentioned MS Word, WordPerfect, ASCII, Excel and Lotus as acceptable file formats at the Forum.

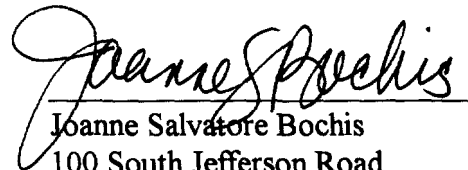
IV. Conclusion

15. The Commission is making significant progress in its efforts to streamline and simplify its processes. NECA supports the Commission's effort in this electronic filing initiative. This system should significantly reduce paper copies and the attendant storage problems and allow for easier retrieval of documents by the Commission and the public, thus saving much time.

Respectfully submitted,

NATIONAL EXCHANGE CARRIER
ASSOCIATION, INC.

By:



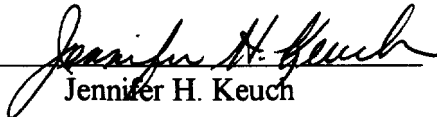
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Its Attorney

May 21, 1997

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments was served this 21st day of May 1997, by transmission via the World Wide Web, and by hand delivery, to the persons listed below.

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Jennifer H. Keuch

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